

**Written Testimony by Attorney General Eric Holder to Senate Judiciary
Committee**

Washington, D.C. ~ Wednesday, November 18, 2009

Good morning Chairman Leahy, Ranking Member Sessions, and Members of the Committee. Thank you for the opportunity to appear before you today to highlight the work and priorities of the Department of Justice. I would also like to thank you for your support of the Department. I look forward to your continued support and appreciate your recognition of the Department's mission and the important work that we do.

As I have stated to you on previous occasions, the Department continues to focus on its vital missions and goals: protecting the American people from terrorist threats and reinvigorating its traditional role in fighting crime, protecting civil rights, protecting the environment, and ensuring fairness in the market place.

Counter-Terrorism Efforts

Protecting America against acts of terrorism is the highest priority of the Department. The Department is constantly striving to improve its ability to identify, penetrate, and dismantle terrorist plots as a result of a series of structural reforms, the development of new intelligence and law enforcement tools, and a new mindset that values information sharing, communication and prevention.

I am committed to continuing to build our capacity to deter, detect and disrupt terrorist plots and to identify those who would seek to do us harm; and I am committed to doing so consistent with the rule of law and American values. We will continue to develop intelligence, identify new and emerging threats, and use the full range of tools and capabilities the Department possesses in its intelligence and law enforcement components.

Together with our Federal, State, and local partners, as well as international counterparts, the Department has worked tirelessly to safeguard America and will continue to do so. For instance, by working with our partners in New York and Colorado, and in concert with other Federal agencies, the Department was recently able to thwart one of the most serious threats since September 11, 2001, culminating in the arrest of Najibullah Zazi.

We are continuing the investigation of Zazi, who at this point has only been charged with a crime, and thus retains the presumption of innocence. But the threat posed to this nation by international terror networks, including al-Qaeda, remains real. The response to that threat

depends on the work of law enforcement at all levels and our partners in the intelligence community who disrupt plots before they actually develop into attacks. The good news is that the system worked: a coordinated effort led to the disruption of the alleged plot before anyone was harmed.

But the system has to work every time. We cannot rest for a single minute – and we will not. The ongoing investigation in Colorado and New York reminds us that there are people who live in this country whose radicalization leads to a desire to commit terrorist attacks against the very country that shelters them. They can become supporters of al-Qaeda or they can become anti-government radicals in the model of Timothy McVeigh. The presence of would be domestic terrorists further highlights the need for collaboration between law enforcement and intelligence agencies at all levels of government.

As we indicated in the papers that we filed in the Zazi case, we used the tools available under the Foreign Intelligence Surveillance Act ("FISA") to obtain much of the information that led to unraveling that plot. The existing tools are valuable in a real and practical sense, and we have discussed their uses with you in detail. I look forward to continuing to work with you to ensure that all these tools are utilized fully, in a manner that is consistent with the rule of law and our core values relating to privacy and civil liberties.

Counterintelligence and Counterespionage

The Department is also pursuing a vigorous strategy to disrupt the activities of foreign intelligence services and foreign illicit procurement networks here in the United States. In the fall of 2007, the Department announced an initiative to step up enforcement of our export control and embargo laws on a nationwide scale. There are now approximately 25 interagency enforcement groups throughout the country working under the guidance of Federal prosecutors, with the full cooperation of the intelligence community, to protect dual use and military technologies from adversaries who would potentially use them against us and to maintain our technological advantage. The substantial increase in prosecutions demonstrates very clearly that our adversaries and others have sophisticated acquisition programs targeting technologies that relate directly to our advantage on the battlefield, such as military night vision, encryption software, unmanned aerial vehicles, and military aircraft components.

We have also seen that espionage is not simply a relic of the Cold War. Earlier this year, a retired State Department employee and his wife were charged with engaging in a long running conspiracy with the Cuban intelligence service to furnish highly sensitive classified information

through coded communications and clandestine meetings. Most recently, a scientist who had access to classified information relating to satellites and Department of Defense programs, was charged with attempted espionage after he gave some of that information to an undercover FBI agent posing as a foreign intelligence officer. We remain vigilant in identifying these activities and will continue to disrupt them whenever possible.

Drug Enforcement

The Department is reinvigorating its traditional role in fighting crime, and drug enforcement is a significant aspect of this effort. We have renewed our commitment to identifying and attacking the highest-level drug trafficking organizations that pose the greatest threat to our communities. The Department's overall drug enforcement strategy draws on the collective talent and expertise of multiple Federal law enforcement agencies. Together, we are identifying and targeting the most significant drug trafficking organizations in the world that contribute to the supply of illegal drugs in the United States. We are attacking the financial infrastructure supporting those enterprises, thereby disrupting and ultimately dismantling them.

At the outset, let me salute the courage of our Drug Enforcement Administration ("DEA") employees, who fight these enterprises around the world, often at great personal risk. Sadly, on October 26, 2009, three DEA agents – Special Agent Forrest Leamon, Special Agent Chad Michael, and Special Agent Michael Weston – paid the ultimate price, as a result of a helicopter crash in Afghanistan. In Afghanistan, the DEA has undertaken an expansive effort to target high value drug traffickers, both through its increased operational presence and by focused mentoring of elite Afghan counternarcotics forces. We owe a debt of gratitude to these agents, and all of their colleagues serving around the world.

Closer to home, in recent years, there has been a marked rise in violence within Mexico and along the border between Mexico and the United States – due in significant part to the courageous decision of Mexican President Calderon to confront the cartels head-on. In response to this development, the Department has made it a priority to stem the growing violence and associated criminal activity by deploying all available resources, guided by a coherent strategic plan that maximizes the efficacy of those resources. An essential aspect of our plan is ensuring a productive partnership with the Government of Mexico – including through the Merida Initiative – as well as to strengthen our partnerships with our State and local law enforcement counterparts. Equally important, the Department's plan avoids wasteful overlap and duplication with the activities of our other Federal partners, particularly the law enforcement agencies at the Department of Homeland Security ("DHS").

The root cause of the explosion of violence in Mexico and the associated criminal activity along the Southwest Border is the conflicts within and among a limited number of sophisticated, transnational criminal organizations. These hierarchical, Mexico-based cartels are responsible for smuggling into the United States most of our nation's foreign-produced illegal drugs, which are then transported to distribution organizations in almost every State. While the cartels' primary business is drug trafficking, they also sponsor a panoply of other crimes that support their illegal operations. These other crimes include extortion, murder, corruption of public officials, kidnapping and human smuggling, laundering of illicit criminal proceeds through the existing financial system and through bulk cash smuggling, and the illegal acquisition, trafficking, and use of firearms and other weapons.

The Department's view – based on our decades of experience in investigating, prosecuting, and dismantling organized criminal groups, such as the Mafia, international terrorist groups, and domestic and transnational gangs – is that the best way to fight such large scale criminal organizations is through intelligence-based, prosecutor-led, multi-agency task forces that blend the strengths, resources, and expertise of the complete spectrum of Federal, State, local, and international investigative and prosecutorial agencies. Through their participation in such task forces, our prosecutors in the U.S. Attorneys' Offices and the Criminal Division, together with the Department's law enforcement agencies – DEA, ATF, FBI, and USMS – and other Federal law enforcement agencies (including from DHS and Treasury) and State and local law enforcement, give us the capacity to carry out the full range of activities necessary to succeed against these organizations.

The Department has embraced a model to achieve our comprehensive goals that is proactive, in which we develop priority targets through the extensive use of intelligence. Sharing information, we build cases, coordinating long-term, extensive investigations to identify all the tentacles of a particular organization. Through sustained coordination of these operations, we are able to execute a coordinated enforcement action, arresting as many high-level members of the organization as possible, disrupting and dismantling the domestic transportation and distribution cells of the organization, and seizing as many of the organization's assets as possible, whether those assets be in the form of bank accounts, real property, cash, drugs, or weapons. Finally, we prosecute the leaders of the cartels and their principal facilitators, locating, arresting, and extraditing them from abroad as necessary.

The Department's Organized Crime Drug Enforcement Task Forces ("OCDETF") Program, which is under the direct supervision of the Deputy Attorney General, coordinates the provision of resources and related logistical support to many of these prosecutor-led, multi-agency task forces. The Department's Special Operations Division coordinates all investigations and operations targeting the cartels and other high-value drug trafficking organizations in multiple districts

throughout the country and coordinates the sharing of tactical and operational intelligence, ensuring that those investigations are pursued in a coordinated, focused manner to have the maximum possible impact on these organizations and their operations. In certain key locales, OCDETF has established Co-Located Strike Forces, for the pursuit of the highest level traffickers of drugs, guns, and money. For instance, the San Diego Strike Force has been responsible for coordinating the Federal government's successful efforts against the Arellano-Felix Organization, sometimes known as the Tijuana Cartel, and the Houston OCDETF Strike Force has directed some of our most damaging blows against the Gulf Cartel.

As has been previously reported to you, earlier this year the Department struck tremendous blows against two of the largest Mexican drug cartels, the Sinaloa Cartel and the Gulf Cartel, in Operation Xcellerator and Project Reckoning, both multi-agency, multi-national operations that have so far collectively led to the arrests of more than 1350 drug traffickers and the seizure of more than \$137 million in U.S. currency, 32,000 kilograms of cocaine, thousands of pounds of methamphetamine, and several hundred firearms.

Only a few weeks ago, more than 3,000 agents and officers combined across the United States to make more than 300 arrests in 19 States as part of Project Coronado, a 44-month, multi-agency law enforcement investigation involving Strike Forces, which targeted the distribution network of a major Mexican cartel known as La Familia. To date, Project Coronado has yielded more than 1,186 total arrests, and the seizure of more than \$33 million in U.S. currency, 2,000 kilograms of cocaine, 2,710 pounds of methamphetamine, 29 pounds of heroin, and nearly 400 weapons.

Just this month, I met with Mexican Attorney General Arturo Chávez Chávez and members of his team to discuss how our respective departments could best coordinate our attack on the Mexican cartels. The level of cooperation between our two departments is unprecedented, and, as our recent meeting demonstrates, we will continue to strive to find ways to jointly attack these vicious organizations. An example of our growing levels of cooperation with Mexico is the record number of fugitives Mexico has extradited to the United States over the years. Just this year, we received 100 fugitives from Mexico, in comparison with only 12 fugitives in 2000.

By continuing to work together, building on what we have done well so far and developing new ideas to refresh our strategies, the Department is rising to the challenge of combating the highest-level drug trafficking organizations that threaten our nation.

International Organized Crime

Globalization confers great benefits to people all over the world. But it also generates enormous and unforeseen opportunities for the growth of crime. Criminals from many countries have been quick to see how improved travel and communications could facilitate their illegal businesses. They have become adept in their use of computers and the tools of international finance to prey on victims around the globe. The unfortunate result of these trends is that we now find ourselves facing an unprecedented explosion in organized crime that threatens every nation. In some parts of the world, leaders of criminal enterprises, through ill-gotten fortunes, wield more influence than heads of state or legitimate businesses. Organized criminals seek to gain or solidify footholds here in the United States with an eye toward some of our most strategic industries and markets, our financial institutions and infrastructure. They collude with hostile states, intelligence services and terrorists.

Very early in my tenure I determined that international organized crime must become a priority of the Department. Toward that end, we brought together nine of the major U.S. Federal law enforcement agencies under the auspices of the Attorney General's Organized Crime Council to devise and implement a unified national strategy in response to international organized crime.

One of the most significant steps we have taken to implement the strategy is to establish the International Organized Crime Intelligence and Operations Center, or IOC-2. IOC-2, which has already begun operations, allows partner agencies working across the United States to focus and prioritize joint efforts, combine data, and produce actionable leads for investigators and prosecutors. IOC-2 also provides a forum for coordinating the multi-jurisdictional investigations and prosecutions that result from these leads. IOC-2 is an important step in our strategy to marshal all available intelligence about international criminal organizations, including information from law enforcement, our international partners, and the private sector, to combat this growing threat.

Overseas Rule of Law Development

Given the globalization of crime, it is also essential that we extend our first line of defense abroad, in order to better protect our own citizens. The Obama Administration is taking three steps to accomplish this goal. First, the Criminal Division's Office of International Affairs, working together with the State Department, continues to build a critical international framework of extradition and mutual legal assistance treaties – including a landmark set of treaties with the European Union, for which I exchanged the instruments of ratification last month. Second, we continue to expand our network of overseas law enforcement partnerships, including by conducting joint cross-border investigations and by posting Justice Department prosecutors and

law enforcement agents as attaches in our Embassies. And third, in post-conflict and fragile states around the world, we are working to help build police and prosecutorial agencies that are committed to the rule of law.

Indeed, the Justice Department is committed to upholding the rule of law in all our actions -- and we believe the rule of law is one of the United States' greatest exports. Where there is rule of law, citizens can have an expectation of safety, fairness, due process, and accountability. But it is not only the citizens of other countries who benefit from our overseas rule of law work. Rule of law development helps foster capable and strong partners in the fight against transnational crime, corruption, and terrorism and, in so doing, helps stem the tide of criminality before it reaches the United States. Thus, the safety and future prosperity of the United States, no less than that of foreign countries, depends on the strengthening of the rule of law overseas.

To advance this goal, the Justice Department has two offices in the Criminal Division dedicated solely to overseas rule of law development: the International Criminal Investigative Training Assistance Program (known as "ICITAP") and the Office of Prosecutorial Development, Assistance and Training (known as "OPDAT"). These two offices, with funding support from the State Department, place long-term, in-country Federal prosecutors and senior law enforcement advisors to provide tailored rule of law assistance on a range of issues from human trafficking to border security in more than 30 countries around the world -- ranging from Indonesia, to Pakistan, to the Balkans, to Colombia.

The Justice Department also has made an extensive commitment to support the missions in Afghanistan and Iraq. In Afghanistan, in addition to the DEA's efforts, the FBI continues to undertake counterterrorism efforts and intelligence gathering, and also supports the Major Crimes Task Force by closely mentoring select Afghan investigators. The USMS advises and trains Afghan counternarcotics police on witness and judicial security, and ATF agents embedded with the military are conducting post-blast investigation training. Finally, the Criminal Division's Senior Federal Prosecutors Program, located in Kabul, Afghanistan, provides training, mentoring and guidance to a Task Force of Afghan prosecutors and police investigators responsible for the investigation and prosecution of high-level narcotics, corruption and money laundering offenses. These Department prosecutors also advise and mentor Afghan prosecutors and investigators in the Afghan Attorney General's Anti-Corruption Unit and the Major Crimes Task Force.

In Iraq, the Department of Justice has been involved in rule of law development assistance since 2003. In 2007, U.S. Ambassador Khalilzad created the Office of the Rule of Law Coordinator—the first of its kind in any embassy abroad—and directed that this office be led by the Department of Justice. Since then, three senior Justice Department prosecutors, all with

previous Justice Department development experience in Iraq, have served as the Rule of Law Coordinator, coordinating all U.S. government Rule of Law assistance programs in Iraq.

Civil Rights

Over the past nine months, the Department has taken decisive steps to emphasize the Civil Rights Division's traditional enforcement priorities. But that is not enough. I also am committed to making the Division stronger and better equipped to address today's civil rights challenges.

The recent passage of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act stands at the forefront of our efforts to strengthen our civil rights enforcement. As I noted when I testified in support of this legislation before you in June, one of my highest personal priorities upon returning to the Justice Department has been to do everything I could to help ensure that this legislation finally became law. I am grateful to Congress for passing this landmark legislation, which has been over a decade in the making. In particular, we all owe a significant debt of gratitude to the late Senator Kennedy, who championed this bill from its inception, and to you, Chairman Leahy, for your leadership.

This is landmark legislation. For the first time in the history of this nation, the Federal government has authority to prosecute violent hate crimes committed because of the victim's sexual orientation, gender, gender identity, or disability. The new law also enhances our ability to prosecute hate crimes based on the victim's race, religion, or national origin, or military status, and enables us to provide assistance to State, local, and tribal officials in their investigation and prosecution of hate crimes. This is the first significant expansion of Federal criminal civil rights laws in over a decade, since passage of the Church-Arson statute in the mid-1990s and it is long overdue.

The Department stands ready to use all of the tools at its disposal to bring the perpetrators of hate crimes to justice. In fact, immediately after the bill became law, the Department began taking action to implement it, issuing a directive to prosecutors in the field and preparing guidance and training for those who are responsible for enforcing it. We also continue to vigorously prosecute cases under other Federal hate crimes statutes. This summer, for example, a grand jury indicted James von Brunn, an 88-year-old anti-Semite, Holocaust-denier and white supremacist, for opening fire at the U.S. Holocaust Museum and killing Stephen T. Johns, a security guard.

I have said to you that we would strengthen civil rights enforcement, and we have done so across a range of other areas. We have been working to protect the voting rights of all Americans. We are

currently preparing for a massive influx of redistricting submissions that will result from the 2010 Census. In September, we achieved an important victory on behalf of American military personnel and other overseas citizens when a Federal court in Virginia ruled that the State violated the voting rights of these citizens by failing to mail absentee ballots in sufficient time for them to be counted in the November 2008 general election, as required by the Uniform and Overseas Citizens Absentee Voting Act. The brave women and men who risk their lives to protect our nation must be given the opportunity to vote and to have their votes counted.

We have also stepped up our voting rights enforcement in Indian Country. In October, the Division notified Shannon County, South Dakota, that it intends to bring suit under Section 203 of the Voting Rights Act, to protect the voting rights of American Indians who speak the Lakota language and have limited English proficiency. This would be the first lawsuit to protect the voting rights of Native Americans since 2000.

The Civil Rights Division is working to fulfill the continuing vitality of the Americans with Disabilities Act through implementation of the Supreme Court's decision in the *Olmstead* case. *Olmstead* held that the ADA requires public agencies to make services available in the most integrated settings appropriate to serve the needs of qualified individuals with disabilities. We are actively considering litigation opportunities in which the Department, through intervention and *amicus* filings, will seek to end unlawful segregation of persons with disabilities and ensure that appropriate integrated settings are made available to them.

We are also bringing cases to enforce the Fair Housing Act. In the past ten months, we have filed 30 cases under that Act, including 17 pattern or practice cases. Earlier this month, we announced that the owners of numerous Los Angeles apartment buildings located in the Koreatown section of the city agreed to pay \$2.7 million to settle allegations that they discriminated against African Americans, Hispanics, and families with children, preferring to rent units instead to Korean tenants. This was the largest monetary settlement ever obtained by the Justice Department in a Fair Housing Act case alleging discrimination in apartment rentals. The Department also has obtained 14 Fair Housing Act consent decrees in the past ten months, including 11 pattern or practice consent decrees.

In fair lending cases, we currently are monitoring cases for compliance and recently entered into two consent decrees with lenders who had engaged in a pattern or practice of discriminatory lending. We are actively engaged in investigations of other lenders for violations of fair lending laws.

In the employment area, the Civil Rights Division is vigorously enforcing Title VII. Since January of this year, we have filed three Title VII pattern and practice suits and obtained consent decrees

in five cases. We also have opened six new investigations of State and local governmental employers with respect to employment opportunities for women, African Americans, and Latinos.

We also continue to file an increasing number of cases under the Uniformed Services Employment and Reemployment Rights Act ("USERRA") on behalf of service members returning to the workforce. In fiscal year 2009, we received 175 USERRA referrals from the Department of Labor, a 75% increase over the previous year and established a "fast track" program to address suitable cases administratively, thereby eliminating any backlog.

Finally, in our work to protect civil rights in education, we filed an *amicus* brief in support of Florida parents who filed suit under Title IX after the State's high school athletic association adopted discriminatory reductions in the game schedule for female student athletes. Our work helped prompt a resolution, pursuant to which the school athletic association agreed to restore the full schedule and to refrain from making any policy changes that treat one gender differently from the other.

As we celebrate new tools and tackle these modern challenges, we are forever mindful of the initial charge of the Civil Rights Division: the enduring promise of the 13th Amendment. As long as slavery or trafficking in persons, as it is often called, endures, the Human Slavery and Trafficking Prosecution Unit stands ready to ensure that this most fundamental civil right is protected.

I am confident that the Civil Rights Division will be able to build on this record of the past ten months, and accomplish even more in the future because of the arrival of Assistant Attorney General Tom Perez. I thank you for confirming him to this important post.

Fairness and Integrity in the Criminal Justice System

Ensuring justice requires the public's trust and confidence in the criminal justice system. I am committed to using all the tools at my disposal to enhance the fairness and integrity of the criminal justice system in numerous ways.

Our sentencing laws play a key role in our criminal justice system. These laws must be tough, predictable, and fair, and must be perceived as fair by the public. As you know, I have set up a working group that is analyzing the range of sentencing issues – from the overall structure of

Federal sentencing to prisoner reentry to unwarranted sentencing disparities – so we can identify those sentencing policies that are working and those that are in need of reform.

There are few areas of the law that cry out for reform more than Federal cocaine sentencing policy. Bipartisanship is in short supply in Washington, but on this issue there is agreement on the need for change. This Administration continues to believe that we can eliminate the sentencing disparity between crack and powder cocaine while also ensuring that violent and dangerous crack offenders receive stiff and certain prison sentences, as they must. The stakes are simply too high to let reform in this area wait any longer.

I am committed to addressing two other areas to help ensure the fairness and integrity of the criminal justice system: helping to solve the indigent defense crisis and ending racial profiling.

I have previously spoken about, and will continue to highlight the indigent defense crisis that exists throughout the Nation. Our criminal and juvenile justice systems fail when defendants lack access to independent and effective counsel. Due to lack of funding and oversight, many jurisdictions fall woefully short of the promise made in *Gideon v. Wainwright* more than 45 years ago. With that promise in mind, I have convened a working group in the Department and tasked it with identifying every tool at our disposal to help address this problem. Justice simply should not be contingent upon whether a defendant can afford to pay for a lawyer.

In the area of racial profiling, the Department's current Guidance Regarding the Use of Race by Federal Law Enforcement Agencies, issued in 2003, has been the subject of some criticism. We need to ensure that our policy allows us to perform our core law enforcement and national security responsibilities with legitimacy, accountability, and transparency. Therefore, I have initiated an internal review to evaluate the 2003 Guidance and to recommend any changes that may be warranted.

Transparency

The Department is committed to an open and accountable government. I have pledged greater transparency and the Department has continued to follow through. As you already know, we issued new comprehensive Freedom of Information Act ("FOIA") Guidelines that direct all Executive branch departments and agencies to apply a presumption of openness when administering the FOIA. The Department has provided extensive guidance and training to educate our agency partners on what this presumption requires, and our attorneys regularly work with agencies to identify documents that the agency has withheld under a legitimate assertion of a

FOIA exemption but that could be disclosed under the new guidelines. In addition to issuing these new FOIA guidelines, the Department has released more than two dozen previously undisclosed Office of Legal Counsel memoranda and opinions relating to national security matters.

My commitment to transparency includes forthrightness concerning difficult issues. For instance, my decisions concerning interrogations – to undertake a limited review of various decisions -- have made some people on both sides unhappy. But I did what I thought was necessary and explained the reasons for my decisions. I have made a number of decisions that have not pleased everyone, but I have made the calls that I believe are right based on the facts and the law.

The Department has also redesigned its website, in part to advance our interest in transparency. The Department's website contains useful information for citizens about our activities, and we are using the site to fulfill the promise of transparency that I have made here and elsewhere in the past.

Youth Violence

Juvenile violent crime arrests grew dramatically in the late 1980s and reached a peak in 1994; in the following ten years the numbers dropped sharply, and they have continued to drop, although less dramatically, since then. For example, there were 3% fewer juvenile arrests in 2008 than in 2007, and juvenile violent crime arrests were down 2%. Nonetheless, as I saw in my recent trip to Chicago, some areas are experiencing increases in the level and severity of youth violence. In the last school year, 34 students were killed and another 290 were shot on the streets of Chicago. In the previous school year, 23 students were killed and 211 were shot. Although none of the homicides occurred inside the schools, what happens in and near the schools affects both the safety and security of our children and their learning environment.

Complex social issues like youth violence and problems involving criminal street gangs are most effectively reduced through collaborative strategies that include law enforcement, social services, community- and faith-based organizations, public health organizations, and the business community, among others. Anti-violence and anti-gang strategies must be carefully planned, drawing on local data and evidence from previous effective efforts. Research shows that high quality implementation is just as important as high quality program designs. Key strategies that have demonstrated effectiveness in reducing gang and youth violence are prevention, intervention to change norms about violence, and targeted enforcement.

The Department supports prevention activities targeted to at-risk and high-risk youth, such as those implementing counseling and skill building programs, which are necessary components of a comprehensive approach to sustainable violence reduction. Early prevention activities that address family environment and parenting tend to yield larger long-term effects than those that reach older children and exclude parents. Some successful prevention programs include the nurse-family partnership, in which registered nurses visit at-risk mothers during pregnancy and in the first two years of childhood; Big Brothers/Big Sisters and other mentoring programs; and cognitive behavioral therapy, which uses structured goal setting and planning to reduce recidivism.

Intervention to change norms about violence includes strategies that utilize targeted deterrence. In one such strategy spearheaded by the Department, groups of known offenders are assembled together with criminal justice officials, community offenders, and service providers. Offenders are exposed to evidence and testimony of the effect of their violent actions, warned of serious consequences for continued violence, and given opportunities, services, and support. This strategy was used in Boston, Chicago, and Project Safe Neighborhood ("PSN") sites across the country. Although nationally PSN was not primarily designed to combat youth violence, this targeted deterrence strategy – embraced by the PSN initiative -- produced a 63% decrease in monthly youth homicides in Boston and a 37% decrease in the monthly homicide rate in Chicago.

Too often, youth are led down the path to criminality by adults who exploit them for personal gain. The Department does not, and will not, tolerate criminals who prey on youth, either by directly involving them in crime, or by creating unsafe and unhealthy environments for youth. In those cases, the Department works to remove those influences from the communities they undermine through targeted enforcement initiatives, where law enforcement officers, prosecutors, and probation and parole professionals coordinate to address the most significant offenders in places of concentrated gang activity. High rate, violent offenders and central gang network figures are identified. Strong cases are built, using Federal prosecutions when appropriate.

Child Exploitation

Children are not subject to violence only through gangs and guns. Each day, children throughout the country encounter the dangers and suffer the consequences of exploitation. No child should have to endure the harm that results from predators and child pornographers on the Internet, abduction, being prostituted (a form of sex trafficking), sexual and physical abuse, and "child sex tourism" in which travelers abroad seek to sexually abuse foreign children.

The Department is developing a National Strategy for Child Exploitation Prevention and Interdiction to further this critical goal, consistent with the PROTECT Our Children Act, which the Congress passed last year. The National Strategy will establish long-range goals for preventing child exploitation, including annual objectives for measuring the Government's progress in meeting those goals. In developing an effective National Strategy, the Department determined that it first was necessary to undertake a detailed assessment of the child exploitation threats posed to our children. The information that the Department is gathering and analyzing in this initial threat assessment is a vital prerequisite to development of an effective, comprehensive, fact-based future strategy. We will soon appoint a senior official within the Office of the Deputy Attorney General to oversee this effort.

Project Safe Childhood ("PSC") is an existing Department-wide effort to prosecute those who use the Internet and other modern technology to distribute child pornography or solicit children for sexual activity. PSC coordinates the efforts of Federal, State and local law enforcement agencies to protect our children from online sexual predators. Today, a PSC task force, led by the U.S. Attorney, operates in every Federal district. PSC is supported by experts in the Child Exploitation and Obscenity Section of the Criminal Division, and their High Technology Investigative Unit. In FY 2007, the Department's Office of Juvenile Justice and Delinquency Prevention ("OJJDP") provided \$4 million in grants to further the goals of Project Safe Childhood. As part of this effort, OJJDP provided \$2.5 million to fund a national public education and awareness campaign. To date, this national media campaign has generated an estimated audience reach of more than 185 million. OJJDP also provided \$1.5 million to fund projects at the local, State, or multi-State levels, including outreach efforts and innovative programming to schools, youth, and community organizations, businesses, and various parent groups. These local projects have provided training and information to a total of nearly 10,000 participants.

OJJDP also administers the ICAC Task Force Program. The ICAC program is a national network of 61 coordinated task forces representing more than 2,000 Federal, State, local, and tribal law enforcement and prosecutorial agencies. By helping State, local, and tribal law enforcement agencies develop effective and sustainable responses to online child victimization and child pornography, we are helping to build capacity at the local level to address these offenses.

In the realm of child sex trafficking, the Child Exploitation and Obscenity Section, the FBI's Crimes Against Children Unit, and the National Center for Missing and Exploited Children have teamed up to target those responsible for the prostitution of children on our own city streets through an initiative dubbed *Innocence Lost*. Since its inception in 2003, 34 Innocence Lost Task Forces and Working Groups have recovered nearly 900 children from the streets. The investigations and subsequent 510 convictions have resulted in lengthy sentences, including multiple 25-years-to-life sentences, and the seizure of more than \$3.1 million in assets. The task

forces include United States Attorneys, State and local law enforcement, and child victim service providers. The FBI, through Operation Cross Country, has led four nationwide take-downs designed to gather intelligence on this form of child sex trafficking and to identify victims who are minors and remove them from the sex trade. The last take-down, in October of 2009, resulted in enforcement actions in 36 cities across 30 FBI divisions around the country and led to the recovery of 52 children who were being victimized through prostitution. Eighty-four pimps were among those arrested on State and local charges.

Health Care Fraud

Every year, billions of dollars are lost to Medicare and Medicaid fraud. Those billions represent health care dollars that could be spent on services for Medicare and Medicaid beneficiaries, but instead are wasted on fraud and abuse. This is unacceptable. The Department is actively fighting health care fraud in all areas of the country through robust criminal prosecution and civil enforcement efforts.

This important work is done through a number of collaborative efforts. In every region of the country, United States Attorneys' Offices, the Department's Criminal Division and other litigating components and the FBI work together with the Center for Medicare and Medicaid Services, the Department of Health and Human Services Office of Inspector General, other Federal agencies (such as the Drug Enforcement Administration, the Department of Labor, and the Office of Personnel Management), State and local law enforcement agencies, and private insurance company special investigative units to deter, detect, and prosecute health care fraud. In addition, our Medicare Fraud Strike Force uses interagency teams to identify hot spots of unexplained high-billing levels in concentrated areas by analyzing Medicare data so that it can target emerging or migrating schemes along with chronic fraud by criminals masquerading as health care providers or suppliers. Working with the Department of Health and Human Services and these other agencies, the Department's civil and criminal enforcement efforts have returned more than \$15 billion to the Federal government, of which \$13.1 billion went back to the Medicare Trust Fund.

Because coordination across agencies is an integral part of preventing and prosecuting health care fraud, Secretary Sebelius and I have pledged to work together to fight waste, fraud and abuse in Medicare and Medicaid. In May 2009, we announced the creation of the Health Care Fraud Prevention and Enforcement Action Team ("HEAT"). In connection with the HEAT initiative, the Justice Department and HHS investigators are using comprehensive data analysis and intelligence gathering to identify potential fraud with unprecedented speed and efficiency. We

have also enhanced training programs on enforcement measures for prosecutors and investigators, and we have increased compliance training for providers to prevent honest mistakes and help stop potential fraud before it happens.

The HEAT initiative has had some great successes thus far. We expanded the Medicare Fraud Strike Force to Houston and Detroit, bringing the total number of cities/regions where the Strike Force is operating to four: South Florida, Los Angeles, Detroit and Houston. These expanded efforts have already shown results. On June 24, 2009, the Criminal Division and United States Attorney's Office for the Eastern District of Michigan announced seven indictments charging 53 people with submitting more than \$50 million in false bills to Medicare in schemes involving physical, occupational, and infusion therapy. On July 29, the Department and United States Attorney's Office for the Southern District of Texas announced that 32 people were indicted in Houston for schemes to submit more than \$16 million in false Medicare claims for durable medical equipment. In fact, in Strike Force cases alone since the HEAT initiative was announced in May, Department prosecutors have filed or unsealed indictments in 25 cases charging 128 defendants who allegedly submitted more than \$123 million in false claims to Medicare, negotiated 24 guilty pleas, and conducted two jury trials that won convictions of three defendants on multiple counts charged. We know that these strike forces work, and in the coming months, we plan to expand strike forces into several other areas around the country that are experiencing a concentrated and cross-regional spread of Medicare fraud.

In addition to criminal prosecutions, the Department has pursued civil enforcement for health fraud. We have worked closely with Congress on the recently passed Fraud Enforcement and Recovery Act ("FERA") to strengthen the Government's ability to combat fraud. Private parties also bring claims under the False Claims Act, alleging fraud against government health care programs, and the Government then can intervene in appropriate cases to pursue the litigation and recover against the defendant.

Although I am personally recused from this matter, the Department's significant recoveries this calendar year include the historic settlement with Pfizer and its subsidiary that resulted in Pfizer agreeing to pay \$2.3 billion, the largest health care fraud settlement in the history of the Department of Justice. Pfizer paid \$1.195 billion in criminal fines, forfeiting \$105 million, and paid \$1 billion to resolve civil claims that the company illegally promoted four drugs and caused false claims to be submitted to government health care programs for indications of the drugs that were not covered. The civil settlement also resolved civil claims that Pfizer paid kickbacks to health care providers to induce them to prescribe these and other drugs.

The Department completed significant civil settlements against drug companies under the False Claims Act recently. For instance, in January, 2009, Eli Lilly pled guilty to illegal marketing of

one of its drugs for unapproved uses, and paid \$1.415 billion, including \$800 million in civil damages that were recovered under the False Claims Act and under State laws, in addition to a \$515 million criminal fine and \$100 million in forfeited assets. And in October, Mylan Pharmaceuticals, Inc., paid \$118 million to resolve allegations that it had sold innovator drugs that were manufactured by other companies and had classified those drugs as non-innovator drugs for Medicaid rebate purposes.

Since the False Claims Act was substantially amended in 1986 and through fiscal year 2008, we have recovered more than \$14.3 billion from fraud that had been committed against Federal health care programs, primarily Medicare. During fiscal year 2008 alone, the Department of Justice's vigorous efforts to combat health care fraud accounted for \$1.12 billion in civil settlements and judgments. During that same time period, the Department opened 849 new civil health care fraud matters and filed complaints or intervened in 226 civil health care fraud matters. Also, during that time period, Federal prosecutors filed criminal charges in 502 health care fraud cases involving charges against 797 defendants and obtained 588 convictions for health care fraud offenses. In addition, they opened 957 new criminal health care fraud investigations involving 1641 defendants. Our monetary recoveries in fiscal year 2009 have already exceeded those of the previous year. We just announced that we have obtained more than \$2.4 billion in False Claims Act settlements and judgments, and that more than \$1.6 billion of that amount was in health care fraud matters.

We will continue to vigorously pursue health care fraud through the criminal and civil means at our disposal. Potential fraudsters should be aware that the HEAT is on.

Tribal Justice and Public Safety for Tribal Communities

Another top priority for the Department of Justice is improving public safety and law enforcement in tribal communities. By statute and because of its government-to-government relationship with tribes, the United States has a legal duty and moral obligation to address violent crime in Indian country and to assist tribes in their efforts to provide for safe tribal communities. The Department takes this obligation seriously and is working actively with tribes and Federal agencies to improve all aspects of law enforcement in Indian country.

Last month, the Deputy Attorney General, the Associate Attorney General, and I met with tribal leaders from throughout the United States to discuss the pressing public safety issues facing American Indians and Alaska Natives, and to hear their views on the most effective strategies for making tribal communities safe. On October 30, the Department also held the official

consultation required under the Violence Against Women Act, to obtain information specifically about the problem of violence directed at Native American women.

Tragically, in many parts of the Indian country, the situation is dire. Violent crime has reached crisis proportions on many reservations, and is having a devastating toll on the daily lives of Native Americans. Based on data reported by tribes to the Bureau of Indian Affairs, we have seen violent crime rates in some parts of Indian Country that are two, four, and sometimes over ten times the national average. When I met with tribal leaders, they made very clear that they also are facing serious problems of violence against children, women, and elders, and that they want and need the Federal government's help in bringing the perpetrators to justice.

The Department has a unique legal and moral duty to respond to the public safety crisis in tribal communities. Under current law, the Department has sole responsibility for prosecuting major crime, including violent felonies, in most of Indian Country. In many instances, only the Department can seek a sentence appropriate to certain serious crimes committed in Indian Country. If we fail to act, justice is not served. I take seriously the Department's duty in this area, and I intend to ensure the Department does all it can to enforce the law where we have jurisdiction. Because the Federal government has a legal obligation to consult with tribal nations before making major decisions that affect their interests, the Department will convene a tribal Nations Leadership Council, composed of elected officials from tribal nations to advise me on matters critical to American Indians and Alaska Natives.

To meet the Department's basic governmental responsibilities in this area, we have launched a comprehensive initiative on public safety in tribal communities, with two principal goals. The first is to find immediate solutions to reduce the crime rates, including homicide, drugs, and violence against children and women, and to put policies in place to help tribal communities make a difference for themselves. The other is to develop long term answers to the problems facing tribal communities. We also are reevaluating our grants to tribal courts and tribal justice initiatives to ensure that we do everything we can to answer the challenge. We have reached out to other Federal agencies – including the Departments of Interior and Health and Human Services, among others – to try to develop a unified and comprehensive approach to public safety challenges in Indian Country.

Although we have already begun to take action to improve the Department's effectiveness in addressing our responsibilities toward Native Americans, a great deal more must be done. We are working to ensure that these discussions with the tribes will provide the foundation for lasting change in this area.

Recovery Act

The American Recovery and Reinvestment Act of 2009 ("ARRA") included \$4 billion in Department of Justice grant funding to enhance State, local, and tribal law enforcement efforts, including the hiring of new police officers, to combat violence against women, and to fight internet crimes against children. The economic crisis has hit our State, local, and tribal justice partners especially hard. Public safety was paramount in the Department's decisions about the use of the money that ARRA provided to us. As of the end of FY 2009 on September 30, our Office of Justice Programs ("OJP") has made 3,883 ARRA grant awards totaling \$2.74 billion to State, local, and tribal criminal justice agencies. This funding is in addition to our 4,346 FY09 grants totaling almost \$2.2 billion that also were awarded.

OJP focused its funding efforts on supporting innovative, evidence-based programs that help communities with a wide range of crime prevention, prosecution, and reentry efforts. Some of these programs have specifically addressed the needs of communities particularly hard hit by the economic downturn. For example, OJP's Bureau of Justice Assistance ("BJA") used ARRA funds to provide over \$123 million to rural law enforcement agencies to help them prevent and combat crime, especially drug related crimes that have had a devastating effect on these smaller communities.

The Department recognizes that State and local agencies need the flexibility to assess their own criminal justice needs and the ability to focus their funding based on those needs. BJA administers the Edward Byrne Memorial Justice Assistance Grant Program ("JAG"), which provides formula block grants to States and localities. In FY09, BJA awarded more than \$480 million in JAG funding. In addition to regular FY JAG funding, BJA also administered critical Recovery Act JAG funding in 2009, awarding more than \$1.9 billion in Recovery JAG funding.

In addition, the Department is committed to ensuring that all funds expended pursuant to the Recovery Act are protected from fraud. We will aggressively enforce the False Claims Act and other federal statutes to ensure that we recover vital dollars that are fraudulently obtained and hold accountable those who steal government recovery funds. The Department worked closely with this Committee on the Fraud Enforcement and Recovery Act to amend the major frauds statute, 18 U.S.C. § 1031, to include fraud involving funds made available under the Recovery Act and the Troubled Assets Relief Program. This important amendment will ensure that Federal prosecutors have jurisdiction to use a potent fraud statute to protect the government assistance provided during this most recent economic crisis. The Department has been providing training to the IG community on the new amendments and their role in strengthening the government's ability to combat Recovery Act fraud, and is working with the Recovery Accountability and Transparency Board to ensure that matters are referred to the Department in a timely matter.

Furthermore, the Antitrust Division launched an Economic Recovery Initiative aimed at training government officials to prevent, detect, and report efforts by parties to unlawfully profit from federal assistance. We ensured that this initiative was up and running just one month after the Recovery Act was signed into law, so that the public would receive the maximum benefit of these fraud prevention and detection efforts before stimulus money was awarded. The Department is uniquely positioned to provide such training due to its expertise in investigating and prosecuting procurement fraud schemes. We intend to draw on all the resources and expertise of the Department, together with our partner agencies and regulatory authorities throughout the Executive Branch to ensure that taxpayer funds are safeguarded from fraud and abuse and that the recovery effort is conducted in an open, competitive and nondiscriminatory manner.

Economic Crime

Economic crimes pose a continual threat to the vitality of our economy. Financial, corporate and mortgage frauds are significant problems and a major focus of the Department of Justice. For example, the integrity of our capital markets depends on the ability of investors to receive, and rely on, accurate financial information. Similarly, abuses involving financial fraud schemes, such as mortgage lending and securitization frauds, foreclosure rescue scams, reverse mortgage scams and bankruptcy schemes, have affected the health of our housing markets. In addition, 15 United States Attorneys' Offices have already reported opening matters concerning entities receiving economic recovery funds. Vital funds appropriated to our armed forces overseas are being diverted.

The Department has an impressive record of success in identifying, investigating, and prosecuting economic crimes, including massive financial and corporate fraud schemes. For example, on October 17th the manager of the multi-billion dollar Galleon Group hedge fund was arrested on insider trading charges along with five others, including an IBM executive, in what was described as the largest hedge fund insider trading scheme ever charged by the Department. We have also had similar success in fighting mortgage fraud. For example, on April 22, 2009, a Federal grand jury indicted four defendants for their participation in a massive mortgage fraud scheme that promised to pay off homeowners' mortgages on their "Dream Homes," but left them to fend for themselves. The scheme involved more than 1,000 investors who invested approximately \$70 million.

I recently joined Treasury Secretary Geithner, Housing and Urban Development Secretary Donovan, Federal Trade Commission Chairman Leibowitz and a group of State attorneys general to announce the creation of four State/Federal mortgage fraud working groups that will be

focused on information-sharing, criminal enforcement, civil enforcement and civil rights enforcement in combating mortgage fraud, including foreclosure and rescue scams and lending discrimination. These working groups are each co-chaired by a State Attorney General and an Assistant Attorney General from the Department of Justice, and include high-level participants from Treasury, HUD, the FTC, the FBI and State banking authorities.

The Department of Justice has also established a coordinated and unified approach to combating procurement fraud, including fraud relating to the wars in Iraq and Afghanistan and reconstruction efforts in those countries. The Department has devoted an array of resources and expertise to this important mission. The Antitrust Division, the Civil Division, and numerous

U.S. Attorneys' Offices have devoted substantial resources and coordinated their efforts with the Criminal Division's Fraud Section, Public Integrity Section, Office of International Affairs, and the Asset Forfeiture and Money Laundering Section.

The Department has been working closely with and through the International Contract Corruption Task Force ("ICCTF"), various inspectors general, and other law enforcement partners to investigate and prosecute procurement fraud relating to the wars in Iraq and Afghanistan, and the rebuilding of those countries. Established in October 2006, the ICCTF is a joint agency task force that deploys criminal investigative and intelligence assets worldwide to detect and investigate corruption and contract fraud resulting primarily from wars and reconstruction efforts in Iraq and Afghanistan (also referred to as "war-related contract fraud"). This task force is led by a board of governors composed of senior agency representatives who operate all major war-related contract fraud cases to defend the interests of the United States overseas.

Procurement fraud cases, especially those involving the wars in Iraq and Afghanistan, usually are very complex and resource intensive. The cases often involve extraterritorial conduct as well as domestic conduct, requiring coordination between appropriate law enforcement agencies. In order to improve coordination and information sharing, the ICCTF has established a Joint Operations Center based in Washington, D.C. The JOC currently serves as the nerve center for the collection and sharing of intelligence regarding war-related contract fraud cases. The Joint Operations Center coordinates intelligence-gathering and provides analytic and logistical support for the ICCTF agencies. As a result of this concentration of efforts, the Department has significantly increased the number of prosecutions relating to war-related contract fraud.

The FBI currently has special agents deployed in Iraq, Afghanistan, and Kuwait to provide full-time support to the International Contract Corruption Initiative, which addresses major fraud and corruption in the war and reconstruction efforts in Iraq and Afghanistan. These deployments are conducted in 120-day rotation cycles and special agents work jointly with the Defense

Criminal Investigative Service, Army Criminal Investigation Command Major Procurement Fraud Unit, Special Inspector General for Iraq Reconstruction, and the U.S. Agency for International Development, which also have agents deployed to address this crime problem.

To date, the Department has brought criminal charges against more than 100 defendants (including mainly individuals and some companies) for war-related contract fraud, in addition to civil claims brought or settled against a number of contractors. This figure represents more than triple the number of similar criminal cases that had been brought by June 2007.

We must do more and we are doing more. We recently announced an intensified effort to combat financial and corporate fraud. Our new Financial Fraud Enforcement Task Force will tackle all aspects of financial crime, including the type of mortgage fraud that was a significant catalyst for the recent worldwide financial marketplace meltdown.

Protecting Consumers and a Competitive Marketplace

Vigorous antitrust enforcement is critical to protecting America's consumers and ensuring the conditions for a competitive marketplace. We are fulfilling our plans to emphasize robust enforcement of the antitrust laws.

We are committed to challenging mergers that will harm consumers and businesses. Since the beginning of the year, four transactions were restructured or abandoned by the parties in response to an Antitrust Division investigation, and the Division obtained divestitures or other relief in two additional enforcement actions. In addition, the Department of Justice, together with the Federal Trade Commission, announced on September 22, 2009, that we will solicit public comment and hold joint public workshops to explore the possibility of updating the Horizontal Merger Guidelines that are used by both agencies to evaluate the potential competitive effects of mergers and acquisitions. Having guidelines that offer more clarity and better reflect agency practice provides for enhanced transparency and gives businesses greater certainty when making merger decisions, resulting in a more competitive marketplace that benefits consumers.

As part of the Department's effort to work cooperatively with other agencies, we announced in August a partnership with the Department of Agriculture to co-host a series of workshops held around the country in States with significant agriculture industries to examine the state of competition in agriculture markets. The Antitrust Division is actively seeking input from farmers, ranchers, economists, lawyers, consumer groups and processors about their views and experiences. These workshops will give the Department the opportunity to learn first-hand about

such issues as the effects on competition of concentration in relevant sectors, concerns about buyer power, and the economic impact of vertical integration.

Protecting the Environment

The Department continues to vigorously enforce the environmental laws through its Environment and Natural Resources Division, which on November 16 marked the 100th anniversary of its founding as the Public Lands Division. Our enforcement priorities include reducing harmful emissions from large coal-fired power plants, cleaning up environmental sites, and preventing water pollution, especially in the form of contaminated stormwater runoff. During this Administration we have brought cases or secured major settlements in all three of these areas.

The Department also continues its other work to protect the environment. For example, the Environment Division has been involved in the ongoing bankruptcy of a large mining company, Asarco, in an effort to ensure that more than \$1.6 billion is available to clean up the contaminated sites the company is leaving behind. The Department also entered into a landmark agreement to clean up the contaminated Hanford nuclear site, a matter in which both Secretary of Energy Chu and I were personally involved. And, we have prosecuted criminally a number of companies and individuals who have intentionally discharged pollutants from vessels en route to American ports.

The Environment Division is also working with the Environmental Protection Agency to obtain the cleanup of major river bodies in the United States, including the Fox River (Wisconsin), the Kalamazoo River (Michigan) and the Hudson River (New York). Additionally, we have vigorously defended important Federal agency actions from a variety of legal challenges including defense of the U.S. Army's multifaceted activities to dispose of chemical weapons and defense of the Interior Department's listing of the polar bear as a threatened species under the Endangered Species Act.

Nominations

The Department appreciates the work the Committee and the Senate have done to confirm nominees that the President has submitted both for positions in the Department and for the Federal judiciary. At this point in the first year of President Bush's administration, the Senate had confirmed 12 of his lower court judicial nominees; as of November 16, 2009, the Senate has approved only six, while eight remain on the Executive Calendar, continuing to await confirmation by the full Senate. Similarly, as of November 16, 2009, three of eleven Assistant

Attorneys General have yet to be confirmed. I hope the Committee will continue to approve these nominations, and it is imperative that the full Senate act on them expeditiously.

Conclusion

Chairman Leahy, Ranking Member Sessions, and Members of the Committee, I want to thank you for this opportunity to address my priorities for the Department. I am pleased to answer any questions you might have.